

NO PROTEST RECEIVED  
Release copies to District

Date 3-19-99

FEB 12 1999

Surname [REDACTED]

OP:E:EO:R:2

Employer Identification Number: [REDACTED]

Key District: [REDACTED]

Dear Applicant:

We have considered your application for recognition of exemption from federal income tax as an organization described in section 501(c)(6) of the Internal Revenue Code. We have determined that you do not qualify for exemption under that section of the Code. Our reasons for this conclusion and the facts upon which it is based are explained below.

The information submitted indicates that you were incorporated on [REDACTED]. Your Articles of Incorporation state that your purpose is to engage in any lawful act or activity for which a corporation may be organized under such law.

Your bylaws provide for two classes of membership, capitalizing members and associate members. You state that you have [REDACTED] and will have no more, capitalizing members: [REDACTED] (a health plan), [REDACTED] (a health plan), [REDACTED] (a health plan), and [REDACTED] (a health care provider). Your bylaws provide that associate membership consists of (a) providers (including, but not limited to, physicians or other practitioners of the healing arts, hospitals, and suppliers of healthcare technology and information services or suppliers of durable medical equipment, engaged in the business of providing health care services or supplies to consumers), (b) payers (insurance companies writing health care insurance, licensed health care service plans, HMOs, and self-insured employee welfare benefit plans providing benefits for health care services, (c) purchasers (employers or associations purchasing on behalf of, or otherwise providing, health care coverage to individuals, including those engaged in the business of providing health care technology and information services), (d) at-large (those not engaged in the business of providing health care or health care coverage, including federal and state agencies, cities, and counties), and (e) [REDACTED] (those engaged in the business of providing information

In your application, you state that your mission is to make ~~\_\_\_\_\_~~ by facilitating the development of a secure, standards-based, open health information network designed to: collect and appropriately make available information to foster improved quality of care, reduce the cost and complexity of administrative and clinical transactions, and use electronic communications to improve healthcare processes and decision-making. You state that you will accomplish this by:

- (1) facilitating the development of an open, secure electronic network which supports the entire healthcare industry;
- (2) identifying required information infrastructure components and acting to ensure their availability;
- (3) defining functional requirements and general architectural frameworks that support interoperability and effective data exchange among healthcare organisations;
- (4) communicating information systems and technology requirements to the healthcare community;
- (5) identifying vendor products and services compliant with your requirements;
- (6) commissioning the development and operations of critical infrastructure components that are not forthcoming from commercial vendors;
- (7) assisting your members to utilize the healthcare information network to improve administrative efficiencies and quality of care;
- (8) educating healthcare professionals and industry stakeholders; and
- (9) providing an open and objective forum to obtain input and review of your directions, initiative, requirements, and proposals.

You state that you do not intend to operate a computer network for the healthcare industry, but that you do intend to

[REDACTED]

support and encourage the development of a virtual computer network on the Internet, to which access would be controlled to maintain security of the data. You state that you bring together all segments of the healthcare industry, including consumer advocacy groups in a collaborative forum, and that your main purpose is to facilitate the establishment of an electronic connectivity among healthcare organizations and their business partners using secure, convenient, and cost-effective methods. You state that your purpose aims directly at breaking down the barriers to efficient information exchange that are caused by the lack of standards-based health information systems.

You state that the ability to uniformly and timely collect, exchange, publish, and distribute sensitive health information into the hands of the appropriate person or organization is a critical need of the entire industry. You state that you have established [REDACTED] that have been defined to address the current prioritized problem list:

(1) [REDACTED] - the requirement to migrate the healthcare industry away from proprietary information systems and onto a standardized public network so that healthcare professionals or organizations can electronically communicate with each other.

(2) [REDACTED] - ensure that small provider organizations benefit from the administrative simplification provisions mandated under the 1996 Health Insurance Portability and Accountability Act, the law requiring health plans to implement electronic data exchange compliant with industry standards; current solutions have been designed for large organizations with very high transaction volumes.

(3) [REDACTED] - much of the data and information needed to manage healthcare delivery is maintained within proprietary information systems; disseminating such information requires physicians and other provider organizations to implement a different access method for each information system.

(4) [REDACTED] - elevate the priority assigned to data confidentiality and privacy by providing information and education about new tools and techniques, by setting security objectives for healthcare data exchange over public networks, and by

(5) [REDACTED] - define methods which would create a virtual patient record that can be reviewed, by appropriately authorized parties only, regardless of where the separate records are maintained.

You state that the security and administrative services mentioned above are critical requirements for implementing the virtual healthcare information network, the [REDACTED]. You state that a critical component of [REDACTED] is establishing a healthcare certificate authority for user identification. You state that you recognize the need for initiating an electronic identification method that can be used by any organization to authorize access to sensitive health information. You anticipate establishing registration agents for this purpose. You state that any healthcare organization or healthcare system vendor may participate in [REDACTED] by creating an appropriately configured Internet website (a resource), accepting the [REDACTED] certificate for user identification purposes, and agreeing to comply with [REDACTED] standards and policies; use of the [REDACTED] will not be limited to your members. You state that each participating organization is responsible for creating, storing, maintaining, and administering its information. A list of potential [REDACTED] resources includes: administrative transactions supporting eligibility verification, claims or encounter reporting, referral, pre-authorization, health plan and health system provider directories, IPA rosters, pharmacy formularies, patient records, business contracts, and any information that organization want to distribute to healthcare users to support their business processes.

Section 501(c)(6) of the Code provides for the exemption from federal income tax of business leagues, chambers of

commerce, real-estate boards, or boards of trade, not organized for profit and no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Section 1.501(c)(6)-1 of the Income Tax Regulations provides that a business league is an association of persons having some common business interest, the purpose of which is to promote such common interest and not to engage in a regular business of a kind ordinarily carried on for profit. It is an organization of the same general class as a chamber of commerce or board of trade. Thus, its activities should be directed to the improvement of business conditions of one or more lines of business as distinguished from the performance of particular services for individual persons. An organization whose purpose is to engage in a regular business of a kind ordinarily carried on for profit, even though the business is conducted on a cooperative basis or produces only sufficient income to be self-sustaining, is not a business league.

Rev. Rul. 59-234, 1959-2 C.B. 149, holds that a real-estate board, whose primary purpose or activity is the operation of a multiple listing system, is considered to be rendering particular services for its members and is not exempt as an organization described in section 501(c)(6) of the Code. The stated purpose of the multiple listing service is (a) to assist members of the board in rendering better service to the public by creating a broader and more active market for real estate; (b) to stimulate and facilitate the transaction of business between members of the board through cooperation and exchange of exclusive listings; (c) to provide a medium through which real estate may be merchandised more efficiently and expeditiously to the advantage of both buyer and seller; and (d) to encourage realtors to uphold high standards of business practice and to further educate them in adhering to the principles of the Realtors' Code of Ethics. The actual function of the multiple listing system in the instant case involves the listing of property for sale by an owner with a real estate broker, under an 'exclusive listing contract,' which becomes available to all other broker-members of the board. Upon receipt of a listing the board forwards it, with all pertinent information, to its other broker-members. Such listings become the property of the board for a stated period of time, and, upon a sale during this period, a certain percentage of the normal commission is allocated to the board as a fee or commission, the remainder being divided between the selling and listing brokers pursuant to a prearranged schedule. The revenue ruling concludes that the organization, instead of primarily engaging in activities for the improvement of business conditions within the real estate business generally, is performing particular services for its members through the maintenance and operation of its

multiple listing system by providing them with listings of properties for sale, which serve them as a convenience and economy in the conduct of their businesses.

Rev. Rul. 67-182, 1967-1 C.B. 141, holds that an organization whose only activity is providing a reference library of 'electric logs', maps, and information services used solely by its members in their oil exploration businesses is not exempt as an organization described in section 501(c)(6) of the Code. The organization is making specialized information available to its members on a cooperative basis, which serves as a convenience and economy in the conduct of their businesses. Therefore, the operation of the library as described is an activity which constitutes the performance of particular services for individual persons.

Rev. Rul. 68-264, 1968-1 C.B. 264, defines a particular service for the purposes of section 501(c)(6) of the Code as including an activity that serves as a convenience or economy to the members of the organization in the operation of their businesses.

Rev. Rul. 70-641, 1970-2 C.B. 119, holds that a nonprofit organization of individuals from various professions in the field of public health and welfare organized to develop greater efficiency in the professions and solve common problems qualifies for exemption under section 501(c)(6) of the Code. The organization's membership is open to persons engaged in various professions concerned with public health and welfare. The fact that the membership is composed of individuals from a variety of professions does not prevent the organization from qualifying under section 501(c)(6) because the members all have a common business interest in the field of public health and welfare.

Rev. Rul. 73-411, 1973-2 C.B. 180, states that in the case of a chamber of commerce or similar organization, the common business interest required under section 1.501(c)(6)-1 of the regulations is usually the general economic welfare of a community. Membership is voluntary and open generally to all business and professional men and women in the community. The revenue ruling also defines trade associations or business leagues as similar to chambers of commerce or boards of trade, except that they serve only the common business interests of the members of a single line of business or of the members of closely related lines of business within a single industry. The revenue ruling further states that it has been established as a matter of statutory construction that in employing popular names in describing many of the organizations exempted under Subchapter F of the Code, such as "labor organizations," "chambers of

commerce," and others, Congress is presumed to have had reference to organizations as they actually exist and are commonly known. This means that where the requisite characteristics of the organizations exempted by such terms are not otherwise fixed by regulations or statute, the Service is required to look to the characteristics of such organizations as they have commonly come to be known in actuality. It means also that successful applicants for exemption must be shown to possess at least the essential characteristics of the class of organizations commonly known by such names.

Your membership is comprized of a number of different professions and types of organizations, which you have put together as the "healthcare industry." Since you are not open generally to all business and professional men and women in the community, you would not be considered as a "chamber of commerce" under section 501(c)(6) of the Code as explained in Rev. Rul. 73-411, *supra*. For this reason, your right to exemption under section 501(c)(6), if any, must rest on your characterization as a trade association or business league. As also explained in Rev. Rul. 73-411, trade associations or business leagues are similar to chambers of commerce or boards of trade except that they serve only the common business interests of the members of a single line of business or of the members of closely related lines of business within a single industry. Although health plans, health care providers, suppliers of healthcare technology, insurance companies writing health care insurance, information providers, self-insured employee welfare benefit plans, providers of healthcare technology, and governmental agencies may all be involved with healthcare to some extent or other, they are not considered to be in a single line of business or in related lines of business within the meaning of section 501(c)(6) even by the relaxed standards set out in Rev. Rul. 70-641, *supra*. Thus you are lacking an essential element of a trade association or business league within the meaning of section 501(c)(6).

Even in the event you could reform your memberships to meet the definitions of either a line of business or chamber of commerce, the information you have submitted indicates that you were primarily established to provide particular services, as defined in Rev. Rul. 68-264, *supra*, for your members in a manner similar to the real estate board discussed in Rev. Rul. 59-234, *supra*. Your need for protecting your information from unauthorized use, a critical requirement for implementing your network, is very similar to the multiple listing system that is available only to the members of the real estate board for their exclusive use.

[REDACTED]

You are also similar to the organization discussed in Rev. Rul. 67-182, supra, since you would be providing a reference facility for the sole use of your members regarding the virtual patient records and the [REDACTED]. Although you state that use of the [REDACTED] will not be limited to your members, not all the users will be able to access all the information.

For these reasons, we conclude that you do not qualify for recognition of exemption from federal income tax under section 501(c)(6) of the Code. You are required to file federal income tax returns.

You have the right to protest this ruling if you believe that it is incorrect. To protest, you should submit a statement of your views, with a full explanation of your reasoning. This statement must be submitted within 30 days of the date of this letter and must be signed by one of your officers. You also have a right to a conference in this office after your protest statement is submitted. If you want a conference, you must request it when you file your protest statement. If you are to be represented by someone who is not one of your officers, he/she must file a proper power of attorney and otherwise qualify under our Conference and Practice Requirements.

If we do not hear from you within 30 days, this ruling will become final and copies of it will be forwarded to the Ohio key district office. Thereafter, any questions about your federal income tax status should be addressed to the Ohio EP/EO key district office. The mailing address for that office is: Internal Revenue Service, EP/EO Customer Service, P. O. Box 2508, Cincinnati, OH 45201.

When sending additional letters with respect to this case to the Internal Revenue Service, you will expedite their receipt by placing the following address on the envelope:

Internal Revenue Service  
OP:E:EO:T:2-[REDACTED], Room 6539  
1111 Constitution Avenue, N.W.  
Washington, D.C. 20224

Sincerely yours,

cc: [REDACTED]  
[REDACTED]  
[REDACTED]

(Signed) Garland A. Carter

Garland A. Carter  
Chief, Exempt Organizations  
Rulings Branch 2

OP:E:EO:T:2 OP:E:EO:T:2  
[REDACTED] [REDACTED]